



**RULE-MAKING ORDER**  
**(RCW 34.05.360)**

**CR-103** (7/22/01)

**Agency:** Insurance Commissioner

- ☒ Permanent Rule  
☐ Emergency Rule  
☐ Expedited Rule Making

**(1) Date of adoption:** September 6, 2002

**(2) Purpose:** These rules implement RCW 48.18.545 and RCW 48.19.035 and restrict the use of credit history in insurance. Insurance Commissioner Matter No. R 2001-11

**(3) Citation of existing rules affected by this order: None**  
Repealed:  
Amended:  
Suspended:

**(4) Statutory authority for adoption:** RCW 48.02.060, 48.18.100, 48.18.120, 48.19.080, 48.19.370, 48.30.010, 49.60.178, 48.18.545(7), 48.19.035(5).  
Other Authority:

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 01-14-155 on 7/3/02 (date).

Describe any changes other than editing from proposed to adopted version: Numerous editing and clarity changes were made.

284-24A-001 – Reference in the title is changed from “this regulation” to “these rules.”

284-24A-005 – The definition of “demographic factor” was clarified and “county” was replaced by “rating territory.” The definition of “significant factor” was amended and the phrase “credit report” was placed with “credit history or insurance score” to be consistent with ESHB 2544.

284-24A-010 – The purpose language in subsection(1) was deleted. The section was amended to allow for the possibility that there may be fewer than four negative factors that led to an adverse action.

284-24A-030 - The default standard was added to protect confidentiality to be consistent with ESHB 2544.

284-24A-045 – The phrase “initial filing” was replaced with the “first rate and rule filing” for clarity.

The section was amended to add a reference to “insurance scores” in addition to “credit history” in the title and text.

284-24A-055 - Section (1) was amended to replace “credit history” with “insurance scoring model.”

284-24A-065 – The questions were numbered for clarity. Question 2 was amended to allow a licensed rating organization to file credit based rating plans on behalf of its member companies. Question 4 was reworded for clarity.

284-24A-070 – The proposed section addressing effective dates was deleted as unnecessary.

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- ☐ (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.  
☐ (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule. Reasons for this finding:

**(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:**

☐ Yes ☒ No If Yes, explain:

**(6) Effective date of rule:**

**Permanent Rules**

☒ 31 days after filing

☐ Other (specify)  
\*(If less than 31 days after filing, specific finding in 5.3 under RCW 4.05.380(3) is required)

**Emergency Rules**

- ☐ Immediately  
☐ Later (specify) \_\_\_\_\_

**CODE REVISER USE ONLY**

**Name (Type or Print)**

Mike Kreidler

**Signature**

**Title**

Insurance Commissioner

**Date**

September 6, 2002

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

**The number of sections adopted in the agency's own initiative:**

New	<u>12</u>	Amended	_____	Repealed	_____
-----	-----------	---------	-------	----------	-------

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

## Chapter 284-24A WAC

### RULES THAT APPLY TO INSURERS THAT USE CREDIT HISTORY FOR PERSONAL INSURANCE UNDERWRITING OR RATING

#### NEW SECTION

**WAC 284-24A-001 What is the purpose of these rules?** These rules describe the standards that apply to insurers that use underwriting criteria or rating plans for personal insurance based on credit history. The rules have been adopted under the authority and purposes of the following laws: RCW 48.02.060; chapters 48.18; 48.19; and 48.30 RCW.

#### NEW SECTION

**WAC 284-24A-005 What definitions are important to these rules?** **"Demographic factors"** means the factors listed below if they are used in an insurer's rates, rating tiers, rating factors, rating rules or risk classification plan:

- Age of the insured;
- Sex of the insured;
- The rating territory assigned to the insured's primary home address; and
- The zip code assigned to the insured's primary home address. **"Premium"** means the same as RCW 48.18.170.

**"Rate"** means the cost of insurance per exposure unit.

**"Rating factor"** means a number used to calculate premium.

**"Risk classification plan"** means a plan to formulate different premiums for the same coverage based on group characteristics.

**"Significant factor"** means an important element of a consumer's credit history or insurance score. Examples of significant factors include:

- Bankruptcies, judgments, and liens;
- Delinquent accounts;
- Accounts in collection;
- Payment history;
- Outstanding debt;
- Length of credit history; and
- Number of credit accounts.

**"Substantive underwriting factor"** means a factor that is very important to an underwriting decision. Examples of substantive underwriting factors include:

- History of filing claims;
- History of moving violations or accidents;

- History of driving uninsured;
- Type of performance for which a vehicle is designed; and
- Maintenance of a structure to be insured.

**"Vehicle"** means any motorized vehicle that can be insured under a private passenger auto insurance policy.

#### NEW SECTION

**WAC 284-24A-010 What must an insurer tell a consumer when it takes an adverse action?** (1) An insurer must tell a consumer about significant factors that adversely affect the consumer's credit history or insurance score. As many as four factors may be needed to explain the adverse action.

(2) An insurer must explain what significant factors led to an adverse action in clear and simple language.

(3) An insurer may choose to tell consumers which factors positively affect a consumer's credit history or insurance score.

#### NEW SECTION

**WAC 284-24A-015 When must an insurer file the insurance scoring model to comply with the law?** (1) Every insurer that uses an insurance scoring model to underwrite personal insurance coverage must file the model with the commissioner before January 1, 2003.

(2) Every insurer that uses an insurance scoring model to determine personal insurance rates or premiums must file the model with the commissioner before June 30, 2003. Related rates, risk classification plans, rating factors and rating plans must be filed and approved by June 30, 2003.

#### NEW SECTION

**WAC 284-24A-020 How should an insurance scoring model be filed?** (1) Insurance scoring models must be filed separately. The model must not be filed with any rate or rule filing.

(2) The insurance scoring model must be filed with the current transmittal form accepted by the commissioner. A copy is available at <http://www.insurance.wa.gov/> or by contacting the rates and forms division.

#### NEW SECTION

**WAC 284-24A-025 Will the commissioner accept filings by insurance scoring model vendors?** (1) The commissioner will allow vendors to file insurance scoring models.

(2) Insurers may use models filed by vendors after the commissioner determines the model complies with Washington state laws.

(3) An insurer may use a model that has been filed by a vendor and accepted by the commissioner if the insurer:

- (a) Submits a transmittal form; and
- (b) A cover letter that:
  - (i) References the vendor that filed the model;
  - (ii) References the filing number used by the vendor;
  - (iii) States whether the insurance scoring model will be used for underwriting, rating, or both; and
  - (iv) Proposes an effective date for the insurer's use of the model.

#### NEW SECTION

**WAC 284-24A-030 How will an insurer or vendor know its insurance scoring model will remain confidential and proprietary?** (1) The law says insurance scoring models will remain confidential unless the commissioner is taking an enforcement action. An insurer or vendor may request that its insurance scoring model be available for public inspection.

(2) The transmittal form has a box an insurer or vendor may check if it wants the model to remain confidential.

(a) If the box is checked "yes," the model will be withheld from public inspection.

(b) If the box is checked "no," the model will be available for public inspection.

#### NEW SECTION

**WAC 284-24A-035 What will the commissioner do with the insurance scoring model after he or she receives it?** Actuarial analysts will review the model to determine whether it complies with Title 48 RCW. The scope of the review will include whether the model includes:

- (1) Any prohibited factors; and
- (2) Attributes that may result in unfair discrimination.

#### NEW SECTION

**WAC 284-24A-040 What action will the commissioner take if a model does not comply with Washington law?** The commissioner will:

(1) Notify the insurer or vendor that the model does not comply with Washington law;

(2) State the reasons why the model does not comply with Washington law;

(3) Offer the insurer or vendor sixty days to revise the model to resolve the issue(s) outlined in subsection (2) of this section; and

(4) Provide a specific date when the model may no longer be used in Washington if the model has not been revised to resolve the issue(s).

#### NEW SECTION

**WAC 284-24A-045 If an insurer uses credit history or insurance scores to segment personal insurance business for rating purposes, how can the insurer show that its rating plan results in premium rates that are not excessive, inadequate, or unfairly discriminatory?** If an insurer uses credit history or insurance scores to segment personal insurance business for rating purposes, the insurer must:

(1) Submit a multivariate analysis with the first rate and rule filing the insurer makes to comply with this law.

(2) Submit a multivariate analysis any time the insurer uses credit history to revise a risk classification plan, rating factor, rating plan, rating tier, or base rates.

#### NEW SECTION

**WAC 284-24A-050 What types of information must an insurer include in a multivariate analysis?** (1) A multivariate statistical analysis must evaluate the rating factors listed below (if applicable to the rating plan, and to the extent that data are credible):

(a) For homeowners, dwelling property, earthquake, and personal inland marine insurance:

- (i) Credit history;
- (ii) Territory and/or location;
- (iii) Protection class;
- (iv) Amount of insurance;
- (v) Surcharges or discounts based on loss history;
- (vi) Number of family units; and
- (vii) Policy form relativity.

(b) For private passenger automobile, personal liability and theft, and mechanical breakdown insurance:

- (i) Credit history;
- (ii) Driver class;
- (iii) Multicar discount;
- (iv) Territory;
- (v) Vehicle use;
- (vi) Rating factors related to driving record; and
- (vii) Surcharges or discounts based on loss history.

(2) An insurer must provide a general description of the model used to perform the multivariate analysis, including the:

- (a) Formulas the model uses;
  - (b) Rating factors that are included in the modeling process; and
  - (c) Output from the model, such as indicated rates or rating factors.
- (3) An insurer must show how the proposed rates or rating factors are related to the multivariate analysis.

#### NEW SECTION

**WAC 284-24A-055 Should an insurer submit actuarial data based on demographic factors with an insurance scoring model or with a rate filing?** (1) Insurers should not submit actuarial data based on demographic factors with their insurance scoring model.

(2) Insurers must submit actuarial data based on demographic factors to support any difference in rates or premiums based on:

- (a) **"No hit,"** which means the absence of credit history; or
- (b) **"No score,"** which means the inability to determine the consumer's credit history.

(3) The actuarial data must include:

(a) Loss history for an experience period acceptable to the commissioner. The length of the experience period will be determined by the amount of data available to the insurer.

(b) Earned exposures.

(c) Earned premiums.

(d) An analysis of the credibility of the data.

(4) The actuarial data must be segmented by:

(a) Demographic factors;

(b) "No hit"; and

(c) "No score."

(5) The actuarial data must show that the proposed rates, rating factors, rating rules, or risk classification plans relating to "no hit" and "no score" comply with RCW 48.19.020.

(6) These filings are subject to prior approval by the commissioner under the provisions of RCW 48.19.040.

**WAC 284-24A-065 Questions and answers.** (1) Our insurance company uses insurance scoring bands (a range of scores) to determine what to charge a consumer based on their personal insurance score. Does an insurer have to file its insurance scoring bands? Yes. If an insurer uses insurance scoring bands for rating purposes, the insurer must file them (and any future changes to those bands). The bands are part of the rating plan and must be supported by actuarial analysis.

(2) **What types of data can an insurer use to support a credit-based rating plan?** A credit-based rating plan must be based on the experience of the insurer, an affiliated insurer under the same management, or a licensed rating organization. The commissioner will accept data from other states where comparable credit-based rating plans are in effect.

(3) **The law says an insurer cannot use the number of credit inquiries to set rates or to deny insurance. Can an insurer consider the amount of time since the most recent inquiry?** Yes. The law prohibits an insurer from considering the number of credit-seeking or promotional inquiries. It does not prohibit you from considering the length of time since the most recent inquiry about a consumer's credit rating.

(4) **The law says an insurer cannot use collections identified with a medical industry code to set rates or to deny insurance. Not all credit vendors provide industry codes for collection accounts. If a vendor searches for medical references in a text field, would that action comply with the law?** Yes. Collections identified with a medical industry code cannot be used. If medical history is not coded or identified, insurers and vendors are not required to perform additional research.

(5) **The law says an insurer cannot use the initial purchase or finance of a vehicle or house that adds a new loan to the consumer's existing credit history to set rates or to deny insurance. Can my company use the number of such loans and/or the outstanding balance of such loans?**

- An insurer may not use the initial purchase of a home or vehicle to affect eligibility for insurance or insurance premiums. The initial purchase is the first loan taken out to buy a home or vehicle.
- An insurer may evaluate any subsequent borrowing by a consumer.
- A method an insurer or vendor can use to comply with the law is to eliminate vehicle and home loans from the consumer's debt load calculation.

(6) **The law says an insurer cannot use the total available line of credit to set rates or to deny insurance. Can my company use number of credit lines with limits over a set amount?**

- The law prohibits use of data related to the consumer's total available line of credit. Any attribute that evaluates the total amount of credit available to a consumer is prohibited.
- You may use the debt/credit ratio or other ratios that consider the actual debt load. The law does not restrict use of ratios that determine whether an insured is over-extended due to actual debt.